

RULE 120. DEFINITIONS

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COUNTY AGENCY is the county children and youth social service agency established pursuant to the County Institution District Law, 62 P.S. § 2305 (1937), or established by the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P.S. §§ 2161 and 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 P.S. § 901 et seq.

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DESTROY or DESTRUCTION is to erase permanently or the process of permanent erasure of an item leaving no trace or indication that it ever existed.

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EXPUNGE or EXPUNGEMENT is to erase legally or the process of legal erasure of the juvenile record or the sealing of the record making it permanently unavailable to the public but where some information may be retained only by a juvenile justice agency for limited purposes as provided in Rule 173.

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INTELLIGENCE INFORMATION is information concerning the habits, practices, characteristics, possessions, associations, or financial status of any juvenile compiled in an effort to anticipate, prevent, monitor, investigate, or prosecute delinquent activity.

INVESTIGATIVE INFORMATION is the information assembled as result of the performance of any inquiry, formal or informal, into delinquent activity or an allegation of a delinquent act and may include *modus operandi* information.

ISSUING AUTHORITY is any public official having the power and authority of a magistrate, [a Philadelphia bail commissioner]an arraignment court magistrate, or a Magisterial District Judge.

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JUVENILE JUSTICE AGENCY is any court, including the minor judiciary, or any other governmental agency specifically authorized to perform the administration of juvenile justice as its function. Juvenile justice agencies include, but are not limited to, organized State and municipal police departments, probation agencies, district or prosecuting attorneys, the Juvenile Court Judges' Commission, the Administrative Office of Pennsylvania Courts, or any such

persons, agencies, or departments as determined by the court to be juvenile justice agencies.

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JUVENILE RECORD is the information collected and retained by juvenile justice agencies concerning juveniles, and arising from the initiation of delinquency proceedings, consisting of identifiable descriptions, dates and notations of arrest, written allegations, petitions, other formal charging documents, official court records, and any dispositions arising from those records. The juvenile record does not include intelligence information or investigative information that is maintained separately by law enforcement agencies.

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SERVICE PROVIDER is any entity that provides services to juveniles pursuant to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 et seq.

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COMMENT

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“Clerk of courts” is the person given the power under state law or local practice to maintain the official court record. See Rule 166 for additional responsibilities of the clerk of courts.

The county institution districts, as used in the definition of “county agency,” in counties of the fourth, fifth, sixth, seventh, and eighth classes were abolished pursuant to 16 P.S. § 2161. It is the county commissioners’ duties in the counties of those classes to provide the children and youth social service agency with the necessary services for the agency to provide care for the child. See 16 P.S. § 2168.

Under the term “court,” to determine if masters are permitted to hear cases, see Rule 187. See Rule 210 for the power of magisterial district judges to issue arrest warrants.

“Destroy” and “expunge” do not have the same meaning. “Destroy” is to erase permanently, whereas “expunge” is to erase legally or seal the record. Unless authorized by rule or otherwise provided by law, no person is to have access to expunged items. Only in extraordinary circumstances would a record be opened by court order, such as to retrieve specific information not clarified or documented correctly pursuant to Rule 173. However, specific information from juvenile records could be retained for limited purposes. See Rule 173 and its Comment.

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The term “intelligence information” may include information on prescribing, dispensing, selling, obtaining, or using a controlled substance as defined in Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101 et seq.

The term “judge” refers to a judge of the Court of Common Pleas, including senior judges when they are properly certified. It does not include masters or magisterial district judges. Magisterial district judges, however, are included within the definition of “court” when they have the power to issue *arrest warrants* pursuant to Rule 210. See discussion *supra* under definition of “court.” Arrest warrants are distinguished from bench warrants pursuant to Rules 140 and 141. Only judges of the Court of Common Pleas may issue bench warrants if the juvenile: 1) fails to appear at a hearing; or 2) absconds from the court’s supervision.

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“Juvenile records,” as used in these Rules, do not include investigative and intelligence information kept separately by law enforcement agencies or the attorney for the Commonwealth. Those documents kept separately by law enforcement agencies are not subject to Rules 170 and 172. See 18 Pa.C.S. §§ 9105 & 9106. See also Rule 173 for retention of specific information from juvenile records.

Neither the definition of “law enforcement officer” nor the definition of “police officer” gives the power of arrest to any person who is not otherwise given that power by law.

The “official court record” is to contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation files unless they are made a part of the official **court** record by being filed with the clerk of courts.

A “petition” and a “written allegation” are two separate documents and serve two distinct functions. A “written allegation” is the document that initiates juvenile delinquency proceedings. Usually, the “written allegation” will be **filed** **submitted** by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a “probable cause affidavit,” “complaint,” “police paper,” “charge form,” “allegation of delinquency,” or the like. Once this document is submitted, a preliminary determination of the juvenile court’s jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

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Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 120 published with the Court’s Order at 44 Pa.B. (-).

RULE 163. RELEASE OF INFORMATION TO SCHOOL

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B. Notice to school. In addition to the information provided in paragraph (A), the juvenile probation office shall provide notice of the following information:

1) a statement informing the building principal or his or her designee that information received under this rule:

a) shall be maintained separately from the juvenile's official school record;

b) is for the limited purposes of:

i) protecting school personnel and students; and

ii) arranging for appropriate counseling and education for the juvenile;

c) may not be used for school disciplinary decisions concerning the juvenile unless:

i) the juvenile was under the supervision of the board of directors at the time of the incident;

ii) the act or acts that were substantiated by the court took place on or within 1,500 feet of the school property; and

iii) the school has complied with all other statutory, regulatory, and constitutional provisions relative to the imposition of school discipline; and

d) shall be shared with the juvenile's teachers.

2) a statement informing the building principal or his or her designee of the requirement to:

a) maintain a log of all school district employees, or building principals or their designees from other school districts, to whom this information was subsequently provided when a juvenile was transferred to another school; and

b) provide a copy of the notice as listed in paragraph (B)(1) to the new school.

C. Additional information.

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D. **Acknowledgement of notice and information. The building principal or his or her designee shall provide written acknowledgement to the juvenile probation office of the receipt of, and the requirements and restrictions pertaining to, the information provided under this rule.**

[C]E. Transfers to other schools.

1) Any information provided to and maintained by the building principal or his or her designee under this rule shall be transferred to the building principal or his or her designee of any public, private, or parochial school to which the juvenile transfers enrollment.

2) **When this information is transferred to an official from another school district, the building principal or his her designee shall include a copy of the notice initially provided by the juvenile probation office pursuant to paragraph (B).**

3) **The building principal or his or her designee shall maintain a log of all individuals from other school districts to whom this information is subsequently provided, and shall inform the juvenile probation office upon providing this information to officials from other school districts.**

[D]F. **Maintained separately.** Any information provided to the building principal or his or her designee under this rule shall be maintained separately from the juvenile's official school record.

[E]G. **Dissemination.** Unauthorized dissemination of any information contained in the school record to any unauthorized person, agency, or department may result in a finding of contempt of court.

COMMENT

Pursuant to paragraph (B), the juvenile probation office is required to provide notice to the building principal or his or her designee for maintaining court records separately from official school records. Some school districts have established local policies relating to the receipt of this information that requires the information to be provided to a school district official other than a building principal. That individual should be regarded as the building principal's designee with respect to the provisions of this rule.

The delinquency information in the school record is to be used only by school officials and is not to be released to the general public or third parties unless ordered by the court. In addition, information sent to the school may not be used for disciplinary purposes against the juvenile. The juvenile probation office should send a notice to the school when it sends information to the school concerning the findings of the court. The notice should state that any information received by the school should not be used

against the juvenile for disciplinary reasons, including suspensions and expulsions. See 42 Pa.C.S. § 6341(b.1)(4).

The requirements in paragraph (B) are derived from 42 Pa.C.S. § 6341(b.1)(4), 24 P.S. § 5-510; *D.O.F. v. Lewisburg Area School District*, 868 A.2d 28 (Pa. Commw. Ct. 2004) (holding schools do not have the authority to discipline students, even for actions on school property, if they are not currently under school supervision); and *Hoke ex rel. Reidenback v. Elizabethtown Area School District*, 833 A.2d 304 (Pa. Commw. Ct. 2003).

For further dissemination and usage in school, see 42 Pa.C.S. § 6341(b.1).

In paragraph (D), nothing is intended by this rule to preclude acknowledgement by electronic means.

Pursuant to paragraph (F), information provided by the court is to be kept and maintained separately from the juvenile's official school record. If the court has ordered a record to be expunged, the court, concurrently, is to order the destruction of the information provided to the school by the court, including information subsequently provided to another school. The terms "expunged" and "destruction" should not be confused in this *Comment*. Because the school does not fall within any category for retention of information pursuant to Rule 173, there is no reason for the school to maintain its information. Therefore, the school is to destroy all information received from the court.

Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 163 published with the Court's Order at 44 Pa.B. (-).

RULE 167. FILINGS AND SERVICE OF COURT ORDERS AND NOTICES

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B. Service.

- 1) A copy of any order or court notice shall be served promptly on **[each party's attorney, and the juvenile, if unrepresented] the attorney for the Commonwealth, the juvenile's attorney, the juvenile, the juvenile probation officer, and any other person, service provider, or agency listed in the court order.**
- 2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the **[court or] court administrator or other court designee.**
- 3) **Methods of service.** Service shall be:
 - a) **[in writing]** by:
 - i) personal delivery to the party's attorney[, **and if unrepresented,**] **or** the juvenile;
 - ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;
 - iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;
 - iv) sending a copy to **[an unrepresented] the** juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement;
 - v) sending a copy by facsimile transmission or other electronic means if the party's attorney[, **and if unrepresented,**] **or** the juvenile has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case; or
 - vi) delivery to the party's attorney[, **and if unrepresented,**] **or** the juvenile by carrier service; or

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Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 167 published with the Court's Order at 44 Pa.B. (-).

PART C(3)

EXPUNGING OR DESTROYING RECORDS, FINGERPRINTS, AND PHOTOGRAPHS

170. **Motion to Expunge[ing] or Destroy[ing Juvenile Court] Records**

172. Order to Expunge or Destroy

173. Retention of Specific Information From Juvenile Records

RULE 170. MOTION TO EXPUNGE[ING] OR DESTROY[ING JUVENILE COURT] RECORDS

A. **Motion. [Juvenile records may be expunged u]Upon motion, *or sua sponte*, expungement proceedings may be commenced:**

1) if a written allegation is not approved for prosecution;

2) if the petition is dismissed by the court;

3) in consent decree and informal adjustment cases:

a) when six months have elapsed since the final discharge of the juvenile from supervision; and

b) if no proceeding seeking adjudication or conviction is pending;

4) when a juvenile has been discharged from court supervision pursuant to Rule 631:

a) five years have elapsed;

b) the juvenile has not been convicted or adjudicated delinquent for a felony or misdemeanor;

c) no court proceeding is pending seeking such conviction or adjudication; and

d) the delinquent act is not an act precluded from expungement pursuant to 18 Pa.C.S. § 9123(a.1); or

5) when the attorney for the Commonwealth consents to the expungement.

B. **Contents of [M]otion.** A motion, which shall **include [take the form of]** a proposed court order, shall contain the following information:

1) **[T]he name of the juvenile;**

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- 9) the reasons and statutory authority for expunging or destroying the documents, s, fingerprints, or photographs; and

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C. **Service of [M]motion.** In addition to the service required by Rule 345, the movant shall serve the motion on the chief juvenile probation officer.

D. **Answer.**

1) The attorney for the Commonwealth, and any other person upon whom the motion was served, may file an answer to the motion.

2) If objections to the motion are not made within thirty days of the filing of the motion, they shall be deemed waived.

E. **Court's response to the motion.**[Hearing. Unless the attorney for the Commonwealth consents to expunging the records t]The court shall [schedule and] conduct a hearing[, and thereafter] or grant or deny the motion after giving consideration to the following factors:

1) the type of offense;

2) the individual's age, history of employment, history of academic or vocational training, delinquent or criminal activity, and drug or alcohol issues;

3) adverse consequences that the individual may suffer if the records are not expunged; and

4) whether retention of the record is required for purposes of public safety.

F. **Inter-county transfer cases.**

1) A motion to expunge or destroy records shall be filed in the county in which the adjudication of delinquency was entered.

2) A motion regarding the records of a juvenile whose disposition did not involve an adjudication of delinquency shall be filed in the county in which the disposition occurred.

3) The court entering an order to expunge or destroy records shall direct the order to any other court possessing records pertaining to the case.

COMMENT

[See 18 Pa.C.S. § 9123 for records that may be expunged and 42 Pa.C.S. § 6341(a) for destruction of fingerprints and photographs.]

Paragraph (A) provides that any party may file a motion to expunge or destroy records, files, fingerprints, or photographs, or the court, sua sponte, may commence expungement proceedings.

Under paragraphs (A)(1) & (2), the written allegation or petition may be dismissed for several reasons, including, but not limited to, when: 1) a juvenile completes an informal adjustment or diversionary program; 2) the attorney for the Commonwealth declines to prosecute; 3) probable cause is not found at the detention hearing pursuant to Rule 242(C)(1); 4) there is no finding on the offenses pursuant to Rule 408(B); or 5) there is no finding of a need for treatment, supervision, and rehabilitation pursuant to Rule 409(A)(1). Expungement proceedings may be commenced upon these dismissals of the written allegation or the petition.

Under paragraph (B)(6), any number assigned to police papers helpful in tracking the police report or written allegation that would assist the law enforcement agency in expunging or destroying the document is to be listed. A reference number could be an offense tracking number, district control number, crime control number, incident number, Philadelphia identification number, or another number assigned by the law enforcement agency to track the document.

Pursuant to paragraph (B)(9), the reasons for expunging the records or destroying fingerprints and photographs are to be included in the motion, specifically citing which provision of paragraph (A) applies.

“Expunge” or “expungement” is defined by Rule 120, which means to erase legally, or the process of legal erasure of an item making it permanently not available to the public but where some information may be retained only for limited purposes by agencies or departments. See Rule 173. See also Comment to Rule 120.

Rule 173 provides for the retention of certain information that is crucial for: 1) determining compliance with the order to expunge; 2) determining eligibility in a court program, determining the grading or penalty of an offense, or for other purposes as provided by law; 3) maintaining statistical and research information; 4) maintaining intelligence and investigative information; and 5) financial audits.

The new procedures instituted with the changes of 201- require one procedure for expunging or destroying records, fingerprints, and photographs. One order will go to the appropriate agencies and departments as required by Rule 172 and will help those agencies become more efficient in the manner in which items are destroyed or expunged.

Pursuant to paragraph (D), the attorney for the Commonwealth is given an opportunity to respond to the motion. The attorney for the Commonwealth should specify its position on whether items should be expunged or destroyed. Expunged items remain available to law enforcement agencies and the attorney for the Commonwealth in limited circumstances, whereas destroyed items are permanently erased. The attorney for the Commonwealth should consent to expunging records unless the attorney for the Commonwealth demonstrates good cause for the retention of records. See *In re A.B.*, 987 A.2d 769 (Pa. Super. Ct. 2009).

The reasons for maintaining information pursuant to Rule 173 do not qualify as good cause against expunging records under this rule. Maintenance of specific information is different from the maintenance of the official court record or other official records of the juvenile probation office or a law enforcement agency. Pursuant to Rule 173, a separate document, file, or database is to be created. See Rule 173 and its Comment.

If the attorney for the Commonwealth objects to expunging or destroying the records, the court should conduct a hearing on the motion.

Pursuant to paragraph (E)(3), the court is to consider adverse consequences that an individual may suffer if the records are not expunged. Adverse consequences are discussed in The Pennsylvania Collateral Consequences Checklist instituted by Pennsylvania Juvenile Indigent Defense Action Network in conjunction with the initiative the Models for Change System Reform in Juvenile Justice. This checklist may be assessed on the Supreme Court’s website at <http://www.pacourts.us/T/BoardsCommittees/JuvenileCourtProcedural/>.

The attorney for the Commonwealth in the county in which a motion is filed in an inter-county transfer case pursuant to paragraph (F) should provide notice of the motion to, and

communicate with, the attorney for the Commonwealth and the juvenile probation office in the county to which, or from which, the case was transferred.

Notwithstanding this rule, see 18 Pa.C.S. § 9123(a.1) for cases that are ineligible for expungement proceedings. See also 42 Pa.C.S. § 6341 for destruction of fingerprints and photographs.

Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 170 published with the Court's Order at 44 Pa.B. (-).

RULE 172. ORDER TO EXPUNGE OR DESTROY

A. **Contents.** Any order to expunge or destroy the official court record, juvenile probation **[records]files**, docket entries, law enforcement records, or fingerprints and photographs shall include the following information:

- 1) **[A]**all items contained in Rule 170(B);
- 2) **a directive specifically identifying which items shall be expunged or destroyed, including all law enforcement records, juvenile probation files, official court records, other juvenile records, fingerprints, photographs, and any other information pertaining to the arrest;**
- 3) **a directive that the keeper of the juvenile records shall expunge or destroy such items;**
- 4) **a directive that each agency, department, or office, upon request, shall notify the court or its designee, in writing, of the action taken in response to the order to expunge or destroy;**
- 5) **a directive to a school building principal or his or her designee to destroy information received from the court pursuant to Rule 163;**
- 6) the printed name and signature of the judge issuing the order; and
- [3]7)** the date of the court order.

B. **Service.** In addition to the service required by Rule 167, the clerk of courts, **court administrator, or other court designee** shall serve certified copies of the order on the chief juvenile probation officer and any other person or agency as directed by the court.

COMMENT

Pursuant to paragraph (A)(2), the court is to list specifically which items are to be expunged and which items are to be destroyed. Specific information retained pursuant to Rule 173 should be expunged but not destroyed. In most instances, the court should order that the fingerprints and photographs be destroyed and that the remaining records and documents be expunged.

Pursuant to paragraph (A)(4), an agency, department, or office may be requested to produce evidence of compliance with the court order to expunge. Non-compliance may result in a finding of contempt of court.

Pursuant to paragraph (A)(5), the school is to destroy all information received from the court. Because the school is required to store this information separately under Rule 163(F), destruction should not be difficult. See Rule 163 and its *Comment*. The court may also require the school to provide written notice of the action taken.

Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 172 published with the Court's Order at 44 Pa.B. (-).

RULE 173. RETENTION OF SPECIFIC INFORMATION FROM JUVENILE RECORDS

A. Maintenance of specific information.

- 1) All information retained according to this rule shall be confidential. This information is not eligible for inspection pursuant to Rule 160.**
- 2) If any information maintained according to this rule is disseminated to any unauthorized person, agency, department, or office, the person disseminating the information shall be held in contempt of court.**

B. Compliance with expungement order. The court or juvenile probation office shall maintain the following information in a separate document, file, or database for the purpose of determining compliance with an expungement order:

- 1) a list of juvenile names;**
- 2) identifying information, such as date of birth;**
- 3) the case docket number;**
- 4) a copy of the order to expunge; and**
- 5) any compliance letters sent pursuant to Rule 172(A)(4).**

C. Eligibility for court program, the grading or penalty of an offense, or for other purposes as provided by law. The court, juvenile probation office, or the attorney for the Commonwealth shall maintain the following information in a separate document, file, or database for determining eligibility for a court program, the grading or penalty of an offense, or for other purposes as provided by law:

- 1) a list of juvenile names;**
- 2) identifying information, such as date of birth;**
- 3) the case docket number;**
- 4) a list of the delinquent acts alleged or petitioned;**
- 5) a list of the delinquent acts found, if applicable; and**
- 6) the disposition of the case.**

D. Statistical and research purposes. The juvenile probation office, the Juvenile Court Judges' Commission, and the Administrative Office of Pennsylvania Courts may maintain the following information in a separate document, file, or database for statistical and research purposes:

- 1) demographic information;**
- 2) a list of the delinquent acts alleged or petitioned;**
- 3) a list of the delinquent acts found, if applicable;**
- 4) the disposition of the case; and**
- 5) any recidivism information.**

E. Intelligence and investigative information. Law enforcement agencies and the attorney for the Commonwealth may maintain the following information in a separate document, file, or database for intelligence and investigative purposes:

- 1) a list of juvenile names;**
- 2) identifying information, such as date of birth;**
- 3) intelligence information; and**
- 4) investigative information.**

F. Financial audits. The juvenile probation office, placement facilities, service providers, and the county agency shall maintain the necessary information in a separate document, file, or database for financial audits, which may include, but is not limited to:

- 1) the number of juveniles sent to a placement facility;**
- 2) the amount of money paid for the court-ordered service; and**
- 3) the dates of service.**

COMMENT

As used throughout this rule, a separate document, file, or database is to be interpreted as a creation of a new document, file, or database when the original document or file has been expunged pursuant to a court order under Rule 172. This rule provides for the retention of information for specific reasons. Original records will be expunged but specific information contained within those records will be extracted and placed into a new document, file, or database. Only the specific items listed in this rule may be maintained by the specified individuals and entities. All remaining information is to be expunged.

There are several legitimate reasons for retaining specific information relating to a case. As provided in paragraph (A)(1), all information retained according to this rule is to be kept confidential and is not subject to inspection pursuant to Rule 160. If any person does not maintain confidentiality of information, that person is to be held in contempt of court. See paragraph (A)(2). However, entities may share information retained pursuant to this rule if the reasons for sharing the information is consistent with this rule and confidentiality is maintained.

Paragraph (B) provides for the maintenance of compliance letters for expunging records. The court may access the document, file, or database to ensure that a court order to expunge a particular record has been followed. This may also be helpful when a juvenile may inquire as to whether the court order was followed.

Paragraph (C) allows specific information concerning a juvenile to be maintained to determine the juvenile's eligibility for a future court program, the grading or penalty of a new offense, and for other purposes as provided by law. There are instances when the grading or penalty for a new offense is greater because of prior offense(s), for example, retail theft, theft by vehicle, library theft, and driving under the influence of alcohol or other controlled substance. However, offenses cannot be used in a subsequent proceeding unless specifically authorized by law.

Paragraph (D) provides for the retention of specific information for statistical and research purposes. A juvenile's name may not be associated with this information. Demographics, however, may be retained. Aggregate data compiled under this paragraph also may be shared with other persons as statistical and research records only.

Pursuant to paragraph (E), only law enforcement agencies and the attorney for the Commonwealth may retain intelligence and investigative information.

Paragraph (F) provides for the retention of specific information for financial audits. This is important to provide records of service.

Official Note: Rule 173 adopted -, effective -.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 173 published with the Court's Order at 44 Pa.B. -(-).

RULE 370. CONSENT DECREE

A. Agreement.

1) At any time after the filing of a petition and before the entry of an adjudication order, the court may, upon agreement of the attorney for the Commonwealth and the juvenile[**'s attorney or the juvenile, if unrepresented,**] suspend the proceedings and continue the juvenile under supervision in the juvenile's home, under terms and conditions negotiated with the juvenile probation office.

2) The order of the court continuing the juvenile under supervision shall be known as a consent decree.

B. Explanation of conditions. The court shall explain on the record or in writing:

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COMMENT

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If a juvenile violates the conditions of the consent decree, double jeopardy does not attach and bar subsequent prosecution. See *Commonwealth v. Szebin*, 785 A.2d 103 (Pa. Super. Ct. 2001). In *Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981), the Supreme Court viewed a consent decree in the same fashion as Accelerated Rehabilitative Disposition. See also *In re John W.*, 446 A.2d 621 (Pa. Super. Ct. 1982).

Nothing in this rule prohibits the entry of a consent decree after there has been an admission pursuant to Rule 407 or after there has been a ruling on the offenses pursuant to Rule 408. See also Comment to Rule 408.

Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 370 published with Court's Order at 44 Pa.B. - (-).

RULE 408. RULING ON OFFENSES

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B. Did not commit acts.

- 1) If the court finds the juvenile **[did not] committed none[all]** of the alleged delinquent acts, the court shall dismiss the petition and release the juvenile, if detained, unless there are other grounds for the juvenile's detention.
- 2) The court shall **[move to expunge the records]order, sua sponte, the expungement of the record and destruction of fingerprints and photographs** related to the dismissed petition pursuant to 18 Pa.C.S. § 9123(a)(1), **42 Pa.C.S. § 6308**, and Rule **[172]170(A)**.
- 3) Absent cause shown, the court shall expunge **or destroy** the records, **[and order the destruction of any]fingerprints, and [or]photographs**.

C. Committed act. **After an adjudicatory hearing, i[!]f the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409 or enter a consent decree pursuant to Rule 370.**

COMMENT

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Pursuant to paragraph (B), if the court finds that the juvenile **[did not] committed none [all]** of the alleged delinquent acts, the court, **sua sponte[upon its own motion]**, is to expunge **or destroy** the records, **[pursuant to 18 Pa.C.S. § 9123(a)(1)]fingerprints, and photographs pursuant to Rule 170(A) and 18 Pa.C.S. § 9123(a)(1)**. Absent cause shown, the court is to expunge the records pursuant to Rule 172.

If the court does find that the juvenile committed at least one of the offenses petitioned, there is no expungement or destruction of records, fingerprints, or photographs.

_____ In its order, the court is to specify the case reference number or other identifying number so the order only applies to the specified case. See *Comment* to Rule 170 for further definition of a reference number.

Paragraph (C) requires that there is to be an adjudicatory hearing before proceeding pursuant to Rule 409. This rule is not meant to preclude the entry of a consent decree after a finding on an offense pursuant to paragraph (C). If a consent decree is ordered, the court does not proceed under Rule 409.

If the court finds that the juvenile **[did not] committed none [all]** of the alleged delinquent acts and dismisses the petition, the victim, if not present, shall be notified of the final outcome of the proceeding. See Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 408 published with Court's Order at 44 Pa.B. - (-)
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RULE 409. ADJUDICATION OF DELINQUENCY

A. **Adjudicating the juvenile delinquent.** Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

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b) any records, fingerprints, and photographs taken shall be expunged or destroyed.

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COMMENT

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Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed upon order of the court if the juvenile is not adjudicated delinquent.

Pursuant to paragraph (A)(1)(b), the court is to specify which items are to be expunged and which items are to be destroyed. See Rule 172(A)(2) and its Comment.

Pursuant to paragraph (A)(2)(b)(ii), a case reference number is to be included to help track this case. See *Comment* to Rule 170 for further description of a case reference number.

* * *

Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 409 published with Court's Order at 44 Pa.B. - (-
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RULE 1120. DEFINITIONS

* * *

COUNTY AGENCY is the county children and youth social service agency established pursuant to the County Institution District Law, 62 P[a.C].S. § 2305 (1937) or established through the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P.S. §§ 2161[,]and 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 P[a.C].S. § 901 *et seq.*

* * *

COMMENT

* * *

The county institution districts, as used in the definition of “county agency,” in counties of the fourth, fifth, sixth, seventh, and eighth classes were abolished pursuant to 16 P.S. § 2161. It is the county commissioners’ duties in the [fourth, fifth, sixth, seventh, and eighth]counties of those classes to provide the children and youth social service agency with the necessary services for the agency to provide care for the child. See 16 P.S. § 2168.

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Official Note:

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Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1120 published with Court’s Order at 44 Pa.B. - (-).